

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JUL 30 AM 10:53

UNITED STATES OF AMERICA,

Plaintiff,

v.

Oscar HERNANDEZ-Portillo,
Aka: Oscar Rene VILLANUEVA-Hernandez

Defendant

Magistrate Docket No.


'08 MJ 2330

COMPLAINT FOR VIOLATION OF:
BY: DEPUTYTitle 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **July 29, 2008** within the Southern District of California, defendant, **Oscar HERNANDEZ-Portillo aka: Oscar Rene VILLANUEVA-Hernandez**, an alien, who previously had been excluded, deported and removed from the United States to **Guatemala**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent
SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 30th DAY OF JULY, 2008

 Jan M. Adler
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Oscar HERNANDEZ-Portillo****Aka: Oscar Rene VILLANUEVA-Hernandez****PROBABLE CAUSE STATEMENT**

At approximately 3:00 AM on July 29, 2008, Border Patrol Agent C. Brzeczek, responded to the activation of a seismic intrusion sensor in an area approximately 1.5 miles east and adjacent to the United States/Mexico International border.

Upon arriving in the vicinity of the device, he found two subjects attempting to conceal themselves behind a large boulder. Agent Brzeczek approached the subjects and identified himself as a Border Patrol Agent and questioned them as to their citizenship. Both subjects, including one later identified as the defendant **Oscar HERNANDEZ-PORTILLO** (aka: Oscar Rene VILLANUEVA-Hernandez), admitted that he was a citizen and national of Mexico without any valid immigration documents that would allow them to enter or remain in the United States legally. Agent Brzeczek placed the subjects under arrest and transported them to the processing center in Tecate, California.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Guatemala** on **July 30, 2007** via **Columbus, Georgia**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. He stated he understood his rights and agreed to answer questions without the presence of an attorney. During the videotaped sworn statement, the defendant freely admitted that he entered the United States illegally by crossing the international border east of the Tecate, California Port of Entry. The defendant also stated that he claims to be a Mexican national at times to avoid deportation to his homeland of Guatemala. He also stated he was going to Los Angeles, California.